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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

TODD MAURICE WILLIAMS,

Defendant and Appellant.

C085169

(Super. Ct. No. 16FE021370)

Defendant Todd Maurice Williams fled from a vehicle during a traffic stop, and police officers found two loaded firearms in his possession. A jury found him guilty of two counts of being a felon in possession of a firearm and found true two street gang enhancements. On appeal, defendant contends that substantial evidence does not support the jury's finding that he intended his crimes to promote or assist the G-Mobb/Guttah street gang. We will affirm.

FACTUAL AND PROCEDURAL BACKGROUND

The Charged Incident

During the summer of 2016, police were aware of an ongoing feud between the G-Mobb and the Oak Park Bloods in the Oak Park neighborhood of Sacramento. On August 17, 2016, two officers made a traffic stop of a Chevy Impala with four passengers for a stop sign violation on Del Norte Boulevard in Oak Park; they observed the Impala slow down and defendant flee the vehicle on foot. The officers pursued and detained him, and discovered he was hiding two loaded firearms under his sweater. While the officers were chasing defendant, the remaining passengers in the Impala took off. One of the officers described the passengers as four African-American men with long dreadlock-style hair.

In an amended information, defendant was charged with two counts of being a felon in possession of a firearm and it was alleged that each crime was committed to benefit a criminal street gang. (Pen. Code, §§ 186.22, subd. (b)(1), 29800, subd. (a)(1).)¹ It was further alleged that defendant had one prior strike (§§ 1192.7, subd. (c), 667, subds. (b)-(i)) and had served a prior prison term (§ 667.5, subd. (b)).

Gang Enhancement Evidence

Defendant had several G-Mobb-related tattoos including the words, “Guttah,” “GT,” “Team,” and “Member” on his forearms, “Demo” (a reference to G-Mobb member Timothy Barksdale), “LR” (a reference to G-Mobb member Cameron Wallace), and various symbols associated with the G-Mobb. G-Mobb members often identify themselves with a “Team Member” tattoo on their forearms and predominantly style their hair in long dreadlocks with blonde tips. Defendant had multiple previous contacts with the police related to the G-Mobb including, inter alia: (1) a vehicle stop in 2008 where

¹ Undesignated statutory references are to the Penal Code.

defendant was in the car with Wallace and two other G-Mobb members and had a loaded revolver under his seat; (2) a vehicle stop in 2008 where defendant was found in a stolen vehicle with Wallace and other G-Mobb members; (3) a vehicle stop in 2009 where defendant admitted to affiliating with Guttah; and (4) during police surveillance of a G-Mobb-associated “trap house,” defendant was observed coming and going from the residence with G-Mobb members, including Barksdale, where officers discovered a loaded handgun, a digital scale, and narcotics packaging.

In 2014 or 2015, defendant posted a rap video on social media titled “Team vs Everybody,” where he claimed allegiance to the G-Mobb and featured other G-Mobb members, including Barksdale. In the video, defendant began by rapping “Gas. Guttah. Gas. Team verse everybody. Guttah.” He rapped, “These niggers want war, so I’m givin’ it full clips” and “[w]e hitting the ‘P’ my young niggas drill shit.” These lines referred to shooting rival gang members and performing a shooting in Oak Park. Defendant and other G-Mobb members also displayed and simulated shooting firearms during the video. Additionally, a few weeks prior to his arrest in the instant case, defendant posted a photo on social media of himself displaying gang signs showing disrespect for the Oak Park Bloods.

In a recorded jail call, the mother of defendant’s child, Daisy Sanchez, told defendant, “I didn’t know who to call, so I called Demo.” Sanchez said that Barksdale “had to explain everything to me and I was just like, damn, that’s fucked up.” Barksdale also spoke to defendant during the same call and defendant told him, “Y’all good mob. Everybody’s good brah. Tell him this (Daisy), everybody’s good, you feel me? Niggas ain’t got nothin’ to worry about. I’m gonna knock this shit out, you feel me?” During another call with a friend named “Natt,” defendant said, “I’m gonna tell the homies and everybody else, ‘Naw, I ain’t dropping out. I’m just not active anymore. You feel me? Y’all be active. Y’all do something blood.” Defendant said, “Shit, I could of got killed

out here playing. That's what I want [Sanchez] to understand. Bruh, you keep acting like I ride with guns for fun shit" In additional calls, defendant pleaded with Sanchez to keep their son away from the gang, asking her to "Help me teach my son different, blood. Let's show him different than what I do" and "please keep my son away from this shit." He told Sanchez that "[m]y son don't need a gang-banging daddy. He don't need to be around that shit and I see that."

Detectives Kenny Shelton and Zach Eaton testified as experts on gangs and specifically, the G-Mobb and its subsets. Detective Shelton testified that the area of Del Norte Boulevard, where the traffic stop occurred in the instant case, is in the territory controlled by the G-Mobb's rival, the Oak Park Bloods. He explained that he would expect a G-Mobb member traveling through the Oak Park Bloods' territory to be armed and traveling with fellow gang members, particularly if that member was outspoken against the Bloods.

Detective Eaton testified that the primary criminal activities of G-Mobb members include possession of an assault weapon, felon in possession of a firearm, assaults with a deadly weapon, possession or driving a stolen vehicle, robbery, possession of a concealed firearm in a vehicle, and participation in a criminal street gang. The detective identified two predicate crimes: (1) a 2012 conviction of Devon White, a G-Mobb member, for possession of a firearm by a felon and an attached street gang enhancement; and (2) a 2014 conviction of Richard McGee, a G-Mobb member, for possession of a concealed firearm in a vehicle and an attached street gang enhancement. Detective Eaton also indicated he would expect a G-Mobb member to be armed and to be in a group when travelling in rival territory, particularly during an active conflict such as the one between the G-Mobb and the Oak Park Bloods during the summer of 2016. Detective Eaton explained that defendant referred to Barksdale or Demo as "Lil' Brah" during his prison

calls with Sanchez.² Detective Eaton opined that possession of two firearms under the circumstances leading to defendant's arrest in this case would benefit the G-Mobb. The detective explained, "Gang members carry firearms, one, to garner instant respect, not only within their gang and with their gang members that they're with, but the rival gangs that they deal with as well. They need to let the rival gang know that they have the means to protect themselves and the means to disrespect that rival gang as they come into contact with each other." The detective further opined that there was no reasonable possibility that defendant possessed the firearms for reasons other than to benefit the G-Mobb. Finally, Detective Eaton opined that he would consider it "putting in work for the gang" to run away from a vehicle with at least one other well-known gang member while carrying two guns, taking police attention off that vehicle.

Defendant testified in his defense and claimed that he purchased the firearms for self-protection because someone had come to his mother's house looking for him.

Verdict and Sentencing

The jury found defendant guilty of both charges and found true the gang enhancements. At a bifurcated bench trial, the trial court found true the prior strike and prior prison term enhancements and sentenced defendant to state prison for six years on count one (double the upper term) and an upper term of four years for the gang enhancement. Additionally, the court imposed a concurrent term of six years (double the upper term) on count two and the upper term of four years for the gang enhancement. Finally, the court sentenced defendant to a consecutive five years for the prison prior.

² In one of those calls, defendant referred to "Little Bruh" as the person "[w]ho I was just out there with," implying he was with Barksdale at the time of his arrest.

DISCUSSION

Defendant challenges the sufficiency of the evidence supporting the gang enhancement on counts one and two. We conclude substantial evidence supports the challenged enhancements.

In considering a claim challenging the sufficiency of the evidence in a criminal case, “ ‘we review the entire record in the light most favorable to the judgment to determine whether it contains substantial evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt.’ ” (*People v. McCurdy* (2014) 59 Cal.4th 1063, 1104.) In this inquiry, “[e]vidence which merely raises a strong suspicion of the defendant’s guilt is not sufficient to support a conviction.” (*People v. Redmond* (1969) 71 Cal.2d 745, 755.) But, “ ‘circumstantial evidence and any reasonable inferences drawn from that evidence’ ” may be substantial evidence to support the conviction. (*People v. Clark* (2011) 52 Cal.4th 856, 943 (*Clark*).) We apply the same standard in considering a challenge to the sufficiency of the evidence to support an enhancement. (*People v. Albillar* (2010) 51 Cal.4th 47, 59-60 (*Albillar*).)

The jury sustained allegations that defendant committed counts one and two “for the benefit of, at the direction of, or in association with a criminal street gang, to wit, G-MOBB / GUTTAH, with the specific intent to promote, further or assist in criminal conduct by gang members,” thereby warranting application of a gang-sentencing enhancement under section 186.22, subd. (b)(1). Defendant does not challenge the sufficiency of the evidence supporting the first prong of this enhancement—that he committed the crimes “for the benefit of, at the direction of, or in association with any criminal street gang.” (§ 186.22, subd. (b)(1).) He contends, however, that insufficient evidence supports the second prong—that he committed the crimes “with the specific

intent to promote, further, or assist in any criminal conduct by gang members.” (*Ibid.*) We find his contention meritless.

The gang enhancement “applies when a defendant has personally committed a gang-related felony with the specific intent to aid members of that gang.” (*Albillar, supra*, 51 Cal.4th at pp. 67-68.) The specific intent element is rarely established with direct evidence, but rather “must be inferred from the facts and circumstances surrounding the case.” (*People v. Perez* (2017) 18 Cal.App.5th 598, 607 (*Perez*).) Thus, “if substantial evidence establishes that the defendant intended to and did commit the charged felony with known members of a gang, the jury may fairly infer that the defendant had the specific intent to promote, further, or assist criminal conduct by those gang members.” (*Albillar*, at p. 68.) For example, in *People v. Morales* (2003) 112 Cal.App.4th 1176, 1198-1199, the court held there was substantial evidence to support the requisite finding of specific intent where the defendant knowingly committed the charged crimes in association with fellow gang members. Similarly, in *People v. Villalobos* (2006) 145 Cal.App.4th 310, 322, there was substantial evidence to support a finding of the requisite specific intent where the defendant knew her codefendant was a gang member and she acted in concert with him in the commission of the charged crimes.

Defendant contends that because the other passengers in the Impala were never identified, there is no substantial evidence that he was traveling through Oak Park Blood territory with fellow gang members. He claims that his calls with Sanchez do not show that he was in the Impala with Barksdale or other G-Mobb members. However, in one of those calls, defendant told Sanchez, “you know who (Little Bruh) is. [¶] . . . [¶] Who I was just out there with.” This is evidence from which a reasonable jury could infer that defendant was riding in the Impala with Barksdale, a fellow G-Mobb member, at the time of the crime. During another call, defendant told Barksdale, “Everybody’s good brah. . . . Niggas ain’t got nothin’ to worry about. I’m gonna knock this shit out, you feel me?”

From this, a reasonable jury could infer that defendant was reassuring Barksdale that he would not inform the police about Barksdale or other G-Mobb members. Further, defendant was an “upper tier” G-Mobb member travelling through rival gang territory with two loaded firearms at the time of his arrest. He was in the car with several other African-American men with long dreadlock-style hair, which is the predominant hairstyle of G-Mobb members. Defendant drove in this group through Oak Park Blood territory during a time when the G-Mobb and the Bloods were in a violent active feud, shortly after two G-Mobb members had been shot. Together with defendant’s previous known activities with G-Mobb, including his criminal history and his social media posts antagonizing the Oak Park Bloods, this is the type of circumstantial evidence that is substantial enough to support a conviction. (See *Clark, supra*, 52 Cal.4th at p. 943.)

Defendant contends that because there is no evidence that he uttered any gang slogans, displayed any gang signs, or wore gang clothing during the arrest, there was insufficient evidence to support the specific intent prong.³ The lack of this type of evidence is not dispositive. Based on the evidence presented at trial, a reasonable jury could infer that defendant brought loaded firearms with him and at least one other gang member while driving through rival gang territory during an ongoing violent feud in anticipation of acting to promote, further, or assist in criminal conduct involving his gang brethren. “That the evidence might also reasonably be reconciled with a contrary finding,

³ Defendant analogizes his case to a number of cases where the defendants did not display gang symbols or wear gang clothing and there was insufficient evidence to support a gang enhancement. In each of these cases, however, there was no evidence that the defendants committed the crime in rival gang territory or with the assistance of fellow gang members. (See *Perez, supra*, 18 Cal.App.5th at p. 609; *People v. Franklin* (2016) 248 Cal.App.4th 938, 949-952; *People v. Rios* (2013) 222 Cal.App.4th 542, 572, 574-575; *In re Daniel C.* (2011) 195 Cal.App.4th 1350, 1361, 1363; *People v. Ochoa* (2009) 179 Cal.App.4th 650, 653, 662; *In re Frank S.* (2006) 141 Cal.App.4th 1192, 1199.) Accordingly, these cases are distinguishable.

as defendant argues, does not warrant reversal of the gang enhancement.” (*People v. Ewing* (2016) 244 Cal.App.4th 359, 380, citing *People v. Ferraez* (2003) 112 Cal.App.4th 925, 931 [appellate court does not reweigh evidence or redetermine issues of credibility].)

Moreover, testimony from a gang expert alone can be sufficient to show a defendant specifically intended to promote, further, or assist a criminal street gang. (*People v. Vang* (2011) 52 Cal.4th 1038, 1048 (*Vang*); *Albillar, supra*, 51 Cal.4th at p. 63.) A gang expert “may properly testify about the size, composition, or existence of a gang; ‘motivation for a particular crime, generally retaliation or intimidation’; and ‘whether and how a crime was committed to benefit or promote a gang.’ ” (*People v. Garcia* (2007) 153 Cal.App.4th 1499, 1512.) The expert may also answer “hypothetical questions based on other evidence the prosecution presented, which is a proper way of presenting expert testimony. ‘Generally, an expert may render opinion testimony on the basis of facts given “in a hypothetical question that asks the expert to assume their truth.” ’ ” (*People v. Gonzalez* (2006) 38 Cal.4th 932, 946.) The assumed facts in the hypothetical questions must be based on evidence shown at trial. (*Vang*, at pp. 1045-1046; *Perez, supra*, 18 Cal.App.5th at pp. 607-608.)

In the instant case, Detective Eaton was asked to assume a hypothetical where “subject one”: (1) was a validated, high-ranking G-Mobb member with several G-Mobb tattoos on his body; (2) had posted social media pictures and a rap video disrespecting rival gangs; (3) was travelling in a vehicle through Oak Park Bloods territory at a time when the G-Mobb was feuding with the Oak Park Bloods; (4) was with at least two other black males with long dreadlocks and at least one other G-Mobb member; and (5) had two loaded firearms on his person. The expert opined that based on those facts, the crime would benefit the G-Mobb by increasing respect for the gang. The expert further opined there was no reasonable possibility defendant possessed the guns for purposes other than

benefitting the gang. Because the assumed facts in the hypothetical were based on evidence presented at trial, the jury could reasonably rely on the expert's opinion when finding true the enhancements. (*Vang, supra*, 52 Cal.4th at pp. 1045-1046, 1048-1049.)

Therefore, we conclude there was substantial evidence to support the jury's finding sustaining the gang enhancement allegations.

DISPOSITION

The judgment is affirmed.

s/BUTZ, Acting P. J.

We concur:

s/DUARTE, J.

s/RENNER, J.